

REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested.

After entry of the foregoing Amendment, Claims 1-6 and 9-38 are pending in the present Application. Claim 38 is new. No new matter has been added.

By way of summary, the Final Official Action of October 20, 2005 presents the following issues: Claims 1, 19, 21-24, 30, and 31 stand objected to due to informalities; and, Claims 1-6 and 9-37 stand rejected under 35 U.S.C. § 103 as being unpatentable over Linden et al. (U.S. Patent No. 6,266,649, hereinafter Linden) in view of Sumita et al. (U.S. Patent No. 6,581,207, hereinafter Sumita).

CLAIM OBJECTIONS

The outstanding Official Action has objected to Claims 1, 19, 21-24, 30, and 31 due to informalities.

With regard to the objections to the claims, the Office Action requests that the claims be amended to refer to a computer apparatus or a computer-implemented method. However, Applicants object to this request, as the Board of Patent Appeals and Interferences has made it clear in *Ex Parte Lundgren*, BPAI 2003-2088 that there is no separate technological arts test. Therefore the basis of the request to include a reference to a computer in the preamble is unnecessary in view of *Ex Parte Lundgren*. Furthermore, the present claims recite a statutory methodology, which includes the concrete, tangible result of creating a database of items.

Accordingly, Applicants respectfully request that the objection to Claims 1, 19, 21-24, 30, and 31 be withdrawn.

REJECTION UNDER 35 U.S.C. § 103

The outstanding Official Action has rejected Claims 1-6 and 9-37 under 35 U.S.C. § 103 as being unpatentable over Linden in view of Sumita. The Official Action cites Linden as disclosing all of the elements of the Applicants' claims, with the exception of relationship techniques, which are based on morphological affinity. However, the Official Action cites Sumita as disclosing this more detailed aspect of the Applicants' invention, and states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the cited references for arriving at the Applications' claims. Applicants respectfully traverse the rejection.

By way of background, in marketing content to users in an electronic fashion, it is common place for distributors to compile content in a database.¹ Further, metabases are often times compiled to include descriptors of items in the database, whereby a collection of content of the database can be identified based upon a rule set of the metabase. Such relational techniques provide constraint classes for use with content of a database; however, such systems are deficient in their ability to produce a fixed-length sequence of items out of the database by specifying only partial information.

In light of at least the above deficiency in the art, the present invention is provided. With at least this object in mind, a brief comparison of the claimed invention, in view of the cited references, are believed to be in order.

With regard to Claim 1, Claim 1 is directed to a method of generating sequencing information representing a sequence of items selected in a database. Each item includes a set of descriptors. The method includes a step of specifying a length of the sequence and at least one of the descriptors. A second step includes applying similarity relation techniques

¹ Application, pages 1-2.

between the items of the sequence under construction, in which for at least one item to appear in the sequence, the item is chosen from the database on the basis of a similarity relation with a neighboring item of the sequence with which the chosen item is associated so as to create a morphological continuity along the sequence. Finally the method includes a step of producing the associated items as at least part of the generated sequence, the sequence consequently having a morphological continuity.

The language asserted by the Examiner for support, is at column 11, lines 16-32 of Linden. This section of Linden describes a situation where an already generated list 64 having N items is formed. Each of the items in the list is stored together with a commonality index value which indicates a relatedness of that item to a particular popular item. The similarity list may be weighted by the commonality index value to generate a score, and a list is formed in order of the highest to lowest score.

The outstanding Office Action asserts that it is this sorting of the weighted scores that corresponds with the claimed producing step. However, this is not possible. The claim requires producing the associated items as part of the generated sequence. These items are a sequence of items of the sequence under construction and are from the database. However, in Linden, the scores in the items described at column 11 of Linden cannot be assimilated to the descriptors stored in the database, as claimed. Moreover, by use of the weighting functions, the scoring is not previously stored as an item descriptor in the database. Rather, the scores are calculated afterwards based on the weights derived from client information. Thus, the resulting list is created on the fly, and does not correspond with the sequence of items selected in the database.

Moreover, a score (as described in Linden) cannot be assimilated to a descriptor since a score has no significance to describe the item itself. The score only defines a relationship

with another item in a particular case. A score is not descriptive of the item, but rather is a description of a relation to another item. This is quite different than the presently claimed invention, where a particular item is chosen from the database on the basis of a similarity relation with a neighboring item of the sequence with which the chosen item is associated so as to create a morphological continuity along the sequence.

1. Linden Does Not Provide Incentive for Morphological Features

In the Advisory Action dated February 14, 2006, column 9, lines 29-34, of Linden are cited as teaching both assembling different types of items in the same table or separating items of the same type in different tables. The Advisory Action notes that items, or the item type, are both stored in the database tables for item description. Further, the Advisory Action contends that the types of items also suggest morphological affinity, for example, CD-type is morphologically closer to videos than books.²

However, the portion of the reference cited in the Advisory Action has absolutely nothing to do with morphological relationships. The full text of this citation is reproduced below:

In other embodiments involving sales of products, the table 60 may include entries for most or all of the products of the online merchant, rather than just the popular items. In the embodiment described herein, several different types of items (books, CDs, videos, etc.) are reflected within the same table 60, although separate tables could alternatively be generated for each type of item. (emphasis added)

As can be appreciated from the citation above, the description therein simply notes that the product for sale can be any number of products. In other words, the database may include book, CD, and/or video products. There is no disclosure, or suggestion, in this

² Advisory Action of February 14, 2006 at page 2.

citation, nor anywhere else in Linden, of relating those products together in a database for creating the claimed sequence.

Therefore, based on the teachings of Linden, one of ordinary skill in the art would have no incentive to look for a morphological continuity in the sequence, as required by Claim 1. Rather, according to the language cited from column 11 in Linden, the score ranking is the only useful criterion for sorting the items. The relationship between successive scores in the sorted list is then only “score n being greater than score n+1”. Thus, morphological continuity makes no sense in this case, since there is no use for an additional sorting rule.

Linden is further incompatible with the notion of a morphological continuity search in that Linden stores items in a list only because of their relationship to an external reference item. Moreover, the items in the sorted list as described in Linden, have no relationship amongst themselves, and thus the continuity among these sorted items would be of no real use. Rather, it is the weighting relationship that is externally applied from external sources, that provide any kind of relationship between different items.

Therefore, it is clear that Linden aims at presenting items in the order of sales probability, based on interest expressed by a present consumer. It follows that introducing a variation in successive items according to the presently claimed invention, is not neither taught nor suggested in Linden, nor is it a logical extension or even valuable to Linden. Since the introduction of a variation between successive items of the sorted list is of no use in the Linden sales context, it is respectfully submitted that one of ordinary skill in the art, based on the teachings of Linden, would have no motivation to modify Linden to incorporate the morphological continuity between items in the sequence according to the presently claimed invention. Moreover, neither Linden describes this feature, nor Sumita. Thus, the

combination of Linden and Sumita, no matter how combined, neither teach nor suggest all the features of independent Claim 1.

Although of differing scope, and/or statutory class, it is respectfully submitted that the invention defined by Claims 2-6 and 9-37, also patentably define over the asserted prior art for substantially the same reasons as discussed above with regard to Claim 1.

NEW CLAIM

New Claim 38 has been added to recite a more detailed aspect of the invention, wherein a sequence of morphological continuity is created on the basis of dissimilarities of item properties. As this more detailed aspect of the Applicants' invention is neither disclosed, nor suggested, by the art of record, Applicants respectfully submit that new Claim 38 is allowable over the cited combination of art.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 1-6 and 9-38, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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